

REMARKS

Initially, Applicants thank the Examiner for the courtesies extended to Applicants' representatives during the personal interview conducted at the U.S. Patent and Trademark Office on February 12, 2004. The remarks set forth below reflect issues that were discussed during that interview.

By this Amendment, Applicants cancel claims 18-30, 45-58, 63, 65, and 69-79, without prejudice or disclaimer. Applicants reserve the right to present the subject matter of those claims at a later date. Also by this Amendment, Applicants add new independent claim 83. Support for new claim 83 can be found at least in Figs. 9-11 and 21 and the corresponding written description of those figures, for example. Applicants also have added a new dependent claim 84 and have amended claims 59, 64, 66, and 68. No new matter has been presented.

New claim 83 is identical to the claim discussed at the interview and attached to the Interview Summary. As discussed during the interview, new claim 83 essentially includes the subject matter of dependent claim 65, and also includes additional recitations. In the Office Action, claim 65 was rejected under 35 U.S.C. §102(b) or (e) as being anticipated by either WO 95/16407 ("the '407 publication), U.S. Patent Application Publication No. 2003/0105519 A1 to Fasol et al. ("the Fasol publication"), or U.S. Patent No. 5,957,977 to Melvin ("the Melvin patent"). As discussed at the interview, claim 83 is patentably distinguishable from each of the cited references above for the reasons explained below. In view of the cancellation of various claims by this Amendment, the remaining rejections in the Office Action not mentioned above are moot and should be withdrawn.

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*Interview
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The '407 publication discloses an aortic valve supporting device. The aortic valve supporting device disclosed in the '407 publication places pressure on an outside of the aorta to close the aortic valve during diastole. The '407 publication does not disclose or otherwise suggest a method of treating an in situ mitral valve comprising, *inter alia*, "positioning a passive device . . . such that, at least during systole, a portion of the device contacts and passively alters a geometry of heart structure other than leaflets, chordae, papillary muscles, and an annulus associated with the in situ mitral valve so as to draw together leaflets of the in situ valve to promote closure of the in situ valve," as recited in claim 83. Indeed, in the Office Action, dependent claim 63, which recited a "mitral valve," was not rejected in view of the '407 publication.

The Fasol publication discloses artificial chordae for replacing chordae of mitral or tricuspid valves. As shown in Figs. 9A and 9B, for example, the artificial chordae 10 attaches to a papillary muscle 38 via a suture 16 and to a leaflet via a suture 17. Thus, the Fasol publication fails to disclose or otherwise suggest "positioning a device . . . such that . . . a portion of the device contacts and passively alters a geometry of heart structure other than leaflets, chordae, papillary muscles, and an annulus associated with the in situ mitral valve," as recited in claim 83.

The Melvin patent discloses an activation device for the heart including internal and external support structures. The Melvin patent does not teach or otherwise suggest that the activation device "passively alters a geometry of heart structure other than leaflets, chordae, papillary muscles, and an annulus associated with the in situ mitral valve so as to draw together leaflets of the in situ valve to promote closure of the in situ valve," as recited in claim 83.

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For at least the above reasons discussed at the interview, therefore, new independent claim 83 is patentably distinguishable from each of the '407 publication, the Fasol publication, and the Melvin patent. Claims 59-62, 64, 66-68, and 84 depend from claim 83 and therefore also are allowable for at least the same reasons that claim 83 is allowable. In addition, at least some of the dependent claims recite unique combinations and features that are not taught or suggested by the cited art and therefore at least some of those claims are separately patentable.

Thus, for the reasons explained above and discussed during the interview, Applicants request the withdrawal of the outstanding claim rejections and the timely allowance of claims 59-62, 64, 66-68, 83, and 84. Should the Examiner wish to discuss this case, he is invited to contact the undersigned at 202-408-4445.

The Office Action contains characterizations of the claims and art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this Amendment and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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